

Appl. Ser. No. 10/802,445
Atty. Docket No. 6623-119
Response to final Office Action of November 30, 2005

Amendments to the Drawings

The attached two sheets of drawings (one replacement sheet and one annotated sheet showing changes in red ink) include changes to **Figure 1**. In **Figure 1**, the reference number **31** has been removed as Applicants have become aware that this reference is not referred to in the specification and was made inadvertently and without deceptive intent.

Remarks

The final Office Action of November 30, 2005 has been carefully reviewed. With regard to the rejections of the claims, Applicants respectfully submit that the amendments above and the discussion of the cited art below establish the patentability of claims 1-6 and 8-32. In addition, Applicants thank the Examiner for the thoroughness of the Office Action which Applicants believe have assisted them in placing this case in condition for allowance.

I. **STATUS OF THE CLAIMS**

In the final Office Action dated November 30, 2005:

Claims 1-6 and 8-32 are pending in the application.

Claims 10-32 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claims 1, 4-6, 8, 10-14 and 22-32 were rejected under 35 U.S.C. 102(b) as being anticipated by Buchanan (US 2,463,144).

Claims 1, 4-6, 8, 29 and 30 were rejected under 35 U.S.C. 102(b) as being anticipated by Scotti (US 4,627,762).

Claims 10-12, 14, 31 and 32 were rejected under 35 U.S.C. 102(e) as being anticipated by Anderson (US 2003/0178611 A1).

Claims 2, 3 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan in view of Sanders (US 3,278,210).

Claims 2 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Scotti in view of Sanders.

Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Sanders.

Claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over Scotti in view of Burtelson (US 3,895,879). Claim 9 may have been inadvertently recited in the previous response as being cancelled. However, since there was no intent to cancel claim 8 and there was no formal cancellation of the claim, claim 9 still remains in the application and has and should continue to be examined.

Claims 15-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of McCown (US 3,652,049). It appears that claims 15-21 were rejected twice by

Anderson in view of McCown. Applicants believe that the Examiner may have meant to cite the Buchanan patent in the rejection of claims 15-21 instead of Anderson.

Claims 23-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Scotti.

Claims 1, 8, 10, 13, 19, 22-28, 30 and 32 are amended by this response in order to overcome the rejections, clean up typographical errors, and thus place the application in condition for allowance.

Support in the specification for the claim amendments

Support for amendments to the claims can be found in paragraphs [0010], [0025] and [0032] of the specification and in Figure 1 of the drawings. No new matter has been entered by these amendments.

Summary of the claimed invention

It is important for the Examiner to realize that the presently claimed invention deals with an invention which includes a wire attachment assembly, a wire attachment and tensioning device and a railing system, all which are now patentably defined herein. As clearly shown in Applicants' drawings, described in the specification and set forth in the claims the present invention is easily configurable, capable of being easily tensioned, and extremely safe in use. More specifically, the present invention provides for the capability of utilizing multiple lengths of wire which can be positioned at any vertical interval or prescribed by certain building codes by securing the attachment assembly and/or tensioning device at proper positions on a post. Further, as a result of the multiple tensioning features of the present invention, the invention provides for wires placed at an extremely aesthetically pleasing uniform distance from the surface to which it is attached. The system can be easily manipulated with simple tools and the tensioning device is universally adaptable to any railing geometry and/or varying elevations. As a result, the present invention greatly simplifies installation or inventory required, as only three different types of components are necessary regardless of the decking or stairway utilized. The tensioning device is virtually maintenance-free and yet can be retensioned at a later stage should wire ropes become slack through their use or significant temperature changes. There is no longer a need to fit any wire rope terminal to intermediate posts and only the wire rope itself is fed

through the posts. The holes can be similar-sized to such wire rope, thus locating the wire rope precisely through the posts without any possible movement. Fasteners used to affix the tensioning device to the surface can be sized to terminate within the surface, allowing the wire ropes to be attached at adjoining right-angles and at precisely the same height which is virtually impossible for most existing fittings. The individual wire ropes do not need to be pre-cut and as the end of each can be fed through all intermediate posts before being attached to a first tensioning device after which the wire ropes can be pulled straight, and eventually cut to the exact length required just before attaching them to the opposite tensioning device. Installation is greatly simplified and eliminates waste and also makes pre-cut or pre-swaged lengths obsolete. There is no waste of wire since wire needs only to be cut after it has been unfurled from a reel or spool.

It is clearly evident that the cited references do not address the overall problems addressed by the present invention. In fact, as will be pointed out in the remarks below, the cited references tend to teach away from the present invention and, if utilized as a component of the type of railing systems tensioning device or wire attachment assembly as presently claimed, would only continue to promote the problems already experienced with such systems presently in use.

II. CLAIM REJECTIONS UNDER 35 U.S.C. 112

Claims 10-32 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Applicants have amended independent claim 10 to recite therein a “tensioning assembly being an independent component from the attaching means and the rigid body, the tensioning assembly being fully rotatably attached to a support surface and the tensioning assembly including a threaded end to receive the threaded end of the rigid body such that rotating the tensioning assembly adjusts the distance of the portion of the wire attaching means from the support surface while maintaining the fixed connection between the rigid body and the wire unaffected by rotation of the tensioning assembly,” thus overcoming the Examiner’s objection to the term “affecting.”

III. CLAIM REJECTIONS UNDER 35 U.S.C. 102

Claims 1, 4-6, 8, 10-14 and 22-32 were rejected under 35 U.S.C. 102(b) as being anticipated by Buchanan (US 2,463,144).

Independent claims 1 and 10 have been amended to place those claims in condition for allowance. Dependent claims 2-6 and 8-9 all depend from independent claim 1 and are allowable for the reasons set forth below with respect to independent claim 1 as well as the fact that these claims further patentably define the present invention. Dependent claims 11-28 all either directly or indirectly depend from independent claim 10 and are allowable for the reasons set forth below with respect to independent claim 10 and further patentably define the present invention. Independent claims 29 and 31 incorporate the patentable limitations found in independent claims 1 and 10, respectively, and dependent claim 30 depends from independent claim 29 while dependent claims 32 depends from claim 31. Therefore these claims are also allowable for the reasons set forth below and further patentably define the present invention.

More specifically, with respect to independent claim 1, independent claim 1 now recites that the tapered wedge is a tapered wedge-shaped unitary member. That is, the tapered wedge-shaped member is of unitary construction. In addition, a groove or slot extends along the length of the wedge-shaped member such that when the cylindrical member and collar are screwed together, the tapered internal recess of the collar compresses or crimps the tapered wedge-shaped member about a portion of the wire. This compression or crimping provides a tight fit between the wedge-shaped member and the wire such that the tight fit remains intact even upon loosening of the cylindrical member from the collar.

The amendments to claim 1 now patentably define an invention which is clearly patentable over the prior art cited thereagainst, such as Buchanan ('144), utilized in the rejection set forth above. The Buchanan chuck or gripping member 8 is composed of multiple segments 15 while the presently-amended independent claim 1 provides for a tapered wedge-shaped unitary member and the unitary member has a groove or slot extending along the length of this member such that when the cylindrical member and collar are screwed together, the tapered internal recess of the collar presses or crimps the tapered wedge-shaped member about a portion of the wire to provide a tight fit between the wedge-shaped member and the wire with the tight

fit remaining intact even upon loosening of the cylindrical member from the collar. As is clearly evident in the Buchanan patent, the multiple segments are only capable of holding the wire portion 6 as long as the member 1 tightly encompasses the segments. Such an arrangement can prove quite dangerous if used in the application of Applicants' invention. The specific amended patentable limitations now in claim 1 clearly define patentable structure which is not found in the Buchanan reference and therefore the utilization of the Buchanan reference as a 35 USC 102 rejection against claim 1 and the claims that depend therefrom is clearly no longer applicable. The remaining claims 2-6 and 8-9 further patentable define the present invention and all depend from what is considered now allowable claim 1.

Claim 10 has been amended so as to recite therein that the tensioning assembly is an independent component from the attaching means and the rigid body and that the tensioning assembly is fully rotatably attached to a support surface. The tensioning assembly includes a thread and to receive the threaded end of the rigid body such that rotating the tensioning assembly adjusts the distance of the portion of the wire attaching means from the support surface while maintaining the fixed connection between the rigid body and the wire unaffected by rotation of the tensioning assembly. These patentable limitations, which are now structurally defined in independent claim 1, clearly and patentably define claim 10 over the Buchanan reference which was utilized in a 35 USC 102 rejection of anticipation thereagainst. Even in the Examiner's arguments, it is pointed out that additional structure may be found in Applicants' invention. However, prior to this amendment, it was determined by the Examiner that such a structure was not found in the claims. Thus, by the amendments of independent claims 1 and 10, the clear patentable differences of the present invention over the prior art are now claimed and the reference to Buchanan is no longer applicable in rejecting claims 1, 4-6, 8, 10-14 and 22-32.

Claims 1, 4-6, 8, 29 and 30 were rejected under 35 U.S.C. 102(b) as being anticipated by Scotti (US 4,627,762).

The amendments as now found in independent claim 1 also clearly patentably distinguish the claimed present invention (1, 4-6, 8, 29-30) over the Scotti patent ('762). It is clearly shown in Scotti that the component within Scotti made up of segments 11 and 12 contain the same deficiencies as those found in the Buchanan reference. Scotti discloses, as does Buchanan,

multiple chuck-like elements 10 that resist longitudinal displacement but are capable of radial displacement toward one another to grip a cable or rope, unlike the presently-amended claims which clearly set forth the patentable features of the present invention. Further, neither Scotti nor Buchanan have a groove or slot extending along the length of the wedge-shaped member as now specifically claimed. Claim 30 also defines the present invention, and since all the patentable limitations of claim 1 are found therein, claims 1, 4-6, 8, 29 and 30 are also patentable over the Scotti reference.

Claims 10-12, 14, 31 and 32 were rejected under 35 U.S.C. 102(e) as being anticipated by Anderson (US 2003/0178611 A1).

For the same reasons as set forth with respect to the remarks provided above setting forth the amended patentable limitations now found in independent claim 10, the Anderson reference ('0178611) also fails to meet the patentable limitations found in claim 10 and therefore the claims which depend therefrom. Independent claim 10 now specifically reciting that the tensioning assembly is an independent component from the attaching means and the rigid body, and that the tensioning assembly is fully rotatably attached to a support surface and that the tensioning assembly includes a threaded end to receive the threaded end of the rigid body, such that rotating the tensioning assembly adjusts the distance of the portion of the wire attaching means from the support surface while maintaining the fixed connection between the rigid body and the wire unaffected by the rotation of the tensioning assembly. These patentable limitations now found in independent claim 10 also found in the dependent claims and claims 31 and 32, are not found in the Anderson turnbuckle. Although it is conceded that turnbuckles *per se* are not new, it is the claimed specific patentable limitations which permit the tensioning adjustment to take place in Applicants' claimed invention as now amended. These patentable features patentably differentiate the tensioning assembly of the present claimed invention from the Anderson patent. Anderson's rod 14 is neither rotatably attached to the hull nor attached in a fixed connection to the cable. Rather, it is in a fixed connection to the hull and attached rotatably to the cable only by means of turn member 16 and the bearing block mechanism (components 18-22 and 26). Thus, Anderson clearly fails to show the patentable features now claimed in independent claim 10 and the claims which depend therefrom, and even further patentably define the present invention.

IV. CLAIM REJECTIONS UNDER 35 U.S.C. 103

Claims 2, 3 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan in view of Sanders (US 3,278,210).

Claims 2 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Scotti in view of Sanders.

Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Sanders.

Claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over Scotti in view of Burtelson (US 3,895,879)

Claims 15-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of McCown (US 3,652,049).

Claims 23-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Scotti.

The 35 USC 103 rejections set forth above, which include various combinations of Buchanan in view of Sanders ('210), Scotti in view of Sanders, Anderson in view of Sanders, Scotti in view of Burtelson ('879), Anderson in view of McCown ('049) (and then again an Anderson in view of McCown rejection, one of which contains a typographical error since it is believed the Examiner meant to state "Buchanan in view of McCown"), and Anderson in view of Scotti, all attempt to combine the already-deficient Buchanan, Scotti and/or Anderson references with other references in order to include bits and pieces of Applicants' invention. In reality these combinations still fail to patentably define the amended claims as now presented and which were specifically set forth above.

V. CONCLUSION

In conclusion, since none of the references now disclose the patentable claim limitations as set forth in the amended claims, and that any combination of these references lead away from the present invention rather than provide an obvious extension thereof, claims 1-6 and 8-32 clearly patentably define the present invention over the prior art and should be allowed.

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Applicants, therefore, respectfully request that the Examiner find the claims presently in this application allowable and pass this case to issue.

If the Examiner has any questions, please call Applicants' Attorney, Jacob N. Erlich, at (617) 854-4000.

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Respectfully submitted on behalf of Applicants,

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ANNOTATED SHEET SHOWING CHANGES



1/6

